

RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #17-09

Plainsboro Township, Middlesex County

WHEREAS, Plainsboro Township, Middlesex County, petitioned the Council on Affordable Housing (COAH) for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation on December 30, 2008; and

WHEREAS, Plainsboro Township published notice of its petition in *Home News Tribune* on February 21, 2009, which is a newspaper of general circulation within the county, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5; and

WHEREAS, no objections to the plan were received by COAH during the 45-day objection period, which ended April 7, 2009; and

WHEREAS, Plainsboro Township's fair share plan addresses a total 1987-2018 affordable housing obligation of 642 units, consisting of a 44-unit rehabilitation share, 205-unit prior round obligation and a 393-unit projected growth share obligation pursuant to N.J.A.C. 5:97; and

WHEREAS, COAH staff has reviewed the Township's Housing Element and Fair Share Plan, which is incorporated by reference herein; and

WHEREAS, Plainsboro Township proposes to address its 44-unit rehabilitation share with the Middlesex County Rehabilitation Program; and

WHEREAS, the Township proposes to address its 205-unit prior round obligation with 25 credits for a Regional Contribution Agreement with the City of New Brunswick; 40 credits for 40 units at Princeton Meadows, a family, sale development; 36 credits for 36 units at Princeton Crossing, a family, sale development; and 52 credits and 52 bonuses for Millstone Apartments, a rental development for families; and

WHEREAS, Plainsboro proposes to address a portion of its 393-unit projected growth share obligation with 126 credits for Wyndhurst, a family, rental development; 8 credits and 8 rental bonuses for Millstone Apartments, a family, rental development; 4 credits for Princeton Crossings, a family, sale development; 4 credits and one rental bonus for a SERV special needs facility; for a total of 151 credits; and

WHEREAS, Plainsboro Township proposes to address its remaining projected growth share obligation of 242 units with 14 credits for an Extension of Expiring Controls program; 64 credits and 64 rental bonuses for a Market to Affordable program for family, rental units; nine credits for a proposed assisted living development; eight credits and two rental bonuses for a proposed group home; and 82 credits for a proposed independent living development; and

WHEREAS, Plainsboro Township requested a waiver from N.J.A.C. 5:97-6.9(b)4, limiting a market to affordable program to ten percent of a municipality's fair share obligation; and

WHEREAS, Plainsboro asserts that the waiver fosters the production of affordable housing as much needed family rental units will be made available to income eligible households in a timely manner; and

WHEREAS, the Township stated that granting the waiver fosters the intent of, if not the letter of, the Council's rules because all the units will have 30 year deed restrictions, be affirmatively marketed and will be occupied by income eligible households; and

WHEREAS, Plainsboro has a mix of housing types in its plan; and

WHEREAS, Plainsboro has in place occupied for sale family units, family rental units and a group home; and

WHEREAS, Plainsboro is proposing new age-restricted rentals, Medicaid bedrooms in an Assisted Living facility, new group homes and extending controls on family for-sale units; and

WHEREAS, the Township will be using Millstone Apartments to address 60 units of the Market to Affordable program; and

WHEREAS, the Township is in negotiations with Princeton University to purchase and deed restrict the 60 units in Millstone Apartments that are not currently deed restricted; and

WHEREAS, a task force was held on June 2, 2009; and

WHEREAS, the task force recommended granting the requested waiver with the requirement that an executed agreement for Millstone Apartments be submitted to COAH within six months of the granting of substantive certification, which was updated on June 4, 2009; and

WHEREAS, the Township asserts that granting the waiver fosters the production of affordable housing by providing affordable family rental housing; and

WHEREAS, the Township states that granting the waiver fosters the intent of, if not the letter of, the Council's rules because all the units will have 30 year deed restrictions, be affirmatively marketed and will be occupied by income eligible households; and

WHEREAS, Plainsboro has a mix of housing types in its plan. Plainsboro has in place, occupied for sale family units, family rental units and a group home. Plainsboro is proposing new age-restricted rentals, Medicaid bedrooms in an Assisted Living facility, new group homes and extending controls on family for-sale units; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on May 20, 2009 COAH issued a Compliance Report (attached as Exhibit A and incorporated by reference herein) recommending approval of Plainsboro Township's petition for third round substantive certification; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) and COAH received comments from Fair Share Housing Center; and

WHEREAS, N.J.A.C. 5:97 defines a family unit as a “self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is available to the general public and not restricted to any specific segment of the population;” and

WHEREAS, the Market to Affordable program is not subject to the bedroom distribution required in N.J.A.C. 5:80-26.3(b) and (c), pursuant to N.J.A.C. 5:97-6.9 (c) 2; and

WHEREAS, the Township shall strive to make the municipal-wide, Market to Affordable units, two- and three-bedroom units; and

WHEREAS, the Township has addressed a portion of its 31 unit very-low income requirement with 15 family, rental units in Millstone Apartments; and

WHEREAS, Plainsboro has meet all of the criteria for credit for its Market to Affordable program, pursuant to N.J.A.C. 5:97-6.9; and

WHEREAS, the Township has meet all of the criteria for credit for its Extension of Expiring Controls, pursuant to N.J.A.C. 5:97-6.14.

NOW THEREFORE BE IT RESOLVED that the Council hereby grants Plainsboro Township a waiver from N.J.A.C. 5:97-6.14(b)2 for the Market to Affordable program based on the reasons set forth above and as further described in the task force report (attached as Attachment B); and

BE IT FURTHER RESOLVED that the Housing Element and Fair Share Plan submitted by Plainsboro Township comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive certification to Plainsboro Township; and

BE IT FURTHER RESOLVED that after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), Plainsboro Township shall adopt all implementing Fair Share Ordinances within 45 days of this grant of substantive certification; and

BE IT FURTHER RESOLVED if Plainsboro Township fails to timely adopt its Fair Share Ordinances, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Plainsboro shall submit all Fair Share Ordinances to COAH upon adoption; and

BE IT FURTHER RESOLVED that Plainsboro must provide a signed agreement with Princeton University to deed restrict the Millstone Apartments within six months from the date of substantive certification; and

BE IT FURTHER RESOLVED that Plainsboro shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Plainsboro's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Plainsboro's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Plainsboro and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, the Township is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation determined is less than the projected growth share obligation, Plainsboro shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Plainsboro's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Plainsboro Township to provide for the realistic opportunity of its fair share of low and moderate income housing and which the Township fails to remedy, may render this certification null and void.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on June 10, 2009

A handwritten signature in black ink, reading "Reneé Reiss". The signature is written in a cursive, flowing style with a large initial "R".

Reneé Reiss, Secretary
Council on Affordable Housing



***Council on Affordable Housing
Compliance Report***



May 20, 2009

Updated: June 4, 2009

Municipality: Plainsboro Township
County: Middlesex County

COAH Region: 3
Planning Area: 2, 4 and 5
Special Resource Area: n/a

Housing Element and Fair Share Plan Adopted: November 17, 2008
Petition for 3rd Round Substantive Certification: December 30, 2008
Completeness Determination: February 4, 2009
Date of Publication: February 21, 2009

Objections Received: No

Petition Includes:

VLA: No
GPA: No
Waiver: Yes – N.J.A.C. 5:97-6.9(b)4

Date of Site Visit: April 22, 2009

History of Approvals:

	COAH	JOC	N/A
First Round:		June 10, 1988	
Second Round:	March 8, 1995		
Extended Certification:	March 9, 2005		

Plan Preparer: Shirley Bishop, PP

Municipal Housing Liaison: Lester Varga, PP, AICP

Recommendation: Grant Substantive Certification

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	44
Prior Round Obligation	205
Projected Growth Share Obligation (Net)	393

ACTUAL GROWTH and GROWTH SHARE through September, 2008¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
258	52 units	548	34 units	86 units

COMPLIANCE PLAN SUMMARY

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
Rehabilitation: 44 units				
Credits	Post-April 1, 2000	0		0
Program	County/Municipal		44	44
Rehabilitation Subtotal				44
NEW CONSTRUCTION:				
Prior Round: 205 units				
Credits	Princeton Meadows	40		40
	Princeton Crossing	36		36
	Millstone Apts	52		52
	RCA	25		25
Prior Round Bonuses	Rental	52		52
Prior Round Subtotal				205
Growth Share: 393 units				
Credits	Wyndhurst	126		126
	Millstone Apts	8		8
	Princeton Crossing	4		4
	SERV	4		4
Proposed Mechanisms	Extension of Expiring Controls		14	14
	Market to Affordable		64	64
	Assisted Living		9	9

¹ This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

	Group Home 1		4	4
	Group Home 2		4	4
	Independent Living		82	82
Growth Share Bonuses	Rental	71		71
Growth Share Subtotal				394
Surplus				1

HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Plainsboro Township's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's fair share obligation, which is the sum of the rehabilitation share, the prior round obligation and the growth share.

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Plainsboro has a rehabilitation share of 44 units.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Plainsboro has a prior round obligation of 205.

C. Projected Growth Share

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, Plainsboro has a residential projection of 1,333 units and a non-residential projection of 2,857 jobs, which results in an initial projected growth share obligation of 445 affordable units. However, after subtracting the allowable non-residential exclusions itemized in Worksheet A (attached as Attachment A), Plainsboro's non-residential projection is reduced to 2,025 units. Pursuant to N.J.A.C. 5:97-2.4(b)1, a municipality may fully or partially subtract from its employment projection non-residential development that was included in a developer's agreement prior to January 1, 2004. Plainsboro had such an agreement with Princeton University from 1994 for the 52 low- and moderate-income rental units at Millstone Apartments. The Township provided information demonstrating the number of jobs being created after 2004 to support the requested exclusions. Therefore, Plainsboro's total projected growth share for the period 1999-2018 is 393 affordable units consisting of a 266.60-unit projected residential growth share and a 126.56-unit projected non-residential growth share.²

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	44
Prior Round Obligation	205
Projected Growth Share Obligation (Net)	393

² Pursuant to N.J.A.C. 5:97-2.2(d), Plainsboro's residential projection of 1,333 is divided by 5 to yield 266.60 units and the non-residential projection of 2,025 jobs is divided by 16 to yield 126.56 units. Plainsboro's total projected growth share is therefore 393 units (266.60 + 126.56).

I. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Plainsboro Township's Fair Share Plan, and the supporting documentation incorporated by reference therein, addresses the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

Rehabilitation Share Credits

Plainsboro's Housing Element and Fair Share Plan does not include a request for rehabilitation credit.

Proposed Rehabilitation Program

Middlesex County Rehabilitation Program

Plainsboro will utilize Middlesex County Rehabilitation Program to address 44 units of its rehabilitation obligation. The program is funded with Community Development Block Grant funds and will be available to owner-occupied and rental units. The County will complete 5 units per year until the obligation has been met. Plainsboro has submitted a letter from Middlesex County.

Proposed Rehabilitation Program

Rehabilitation Program			44 Units
Middlesex Program	County	Rehab	44
TOTAL			44

B. Plan to Address Prior Round Obligation

Prior Round Obligation Credits

Plainsboro Township is addressing the prior round obligation with 205 post-1986 credits. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Princeton Meadows	1987	family, sale	40			40
Princeton Crossing	1994	family, sale	36			36
RCA with New Brunswick	1996		25			25
Millstone Apartments	2001	family, rental	52	rental	52	104
TOTALS			153		52	205

Proposed Affordable Housing Mechanisms

Plainsboro Township is relying on credits and therefore is not proposing any additional affordable housing mechanisms to address its prior round obligation.

Prior Round Obligation Parameters

Plainsboro has satisfied the applicable Prior Round parameters as follows:

Prior Round Rental Obligation:³ 52 Units

Development/Project Name	Type of Affordable Unit	# Units
Millstone Apartments	family, rental	52
TOTAL		52

Prior Round Age-Restricted Maximum⁴ : 56 Units

Development/Project Name	Type of Affordable Unit	# Units
n/a		0
TOTAL		0

Regional Contribution Agreement (RCA) Maximum⁵: 124 Units

Receiving Municipality(s)	Type of Affordable Unit	# Units
RCA with New Brunswick	rehabilitation	25
TOTAL		25

³ Rental Obligation: N.J.A.C. 5:97-3.10 Rental Obligation = 25 percent (Prior Round Obligation – Prior Cycle Credits – Impact of 20 percent cap – Impact of the 1,000-unit limitation)
= .25 (205 – 0 – 0 – 0) = 52

⁴ Age-Restricted Maximum: Age-Restricted Maximum = 25 percent (Prior Round Obligation + Rehabilitation Share – Prior Cycle Credits – Rehabilitation Credits - Impact of 20 percent cap – Impact of the 1,000-unit limitation – Transferred or Proposed RCA Units Addressing the Prior Round Obligation) =
.25 (205 + 44 – 0 – 0 – 0 – 0 – 25) = 56

⁵ RCA Maximum: RCA Maximum = 50 percent (Prior Round Obligation + Rehabilitation Share – Prior Cycle Credits – Rehabilitation Credits - Impact of 20 percent cap – Impact of the 1,000-unit limitation) =
.5 (205 + 44 – 0 – 0 – 0 – 0) = 124

Prior Round Rental Bonus Maximum⁶ : 52 Units

Development/Project Name	Type of Bonus	# Bonuses
Millstone Apartments	family, rental	52
TOTAL		52

C. Plan to Address Projected Growth Share

Growth Share Obligation Credits

Plainsboro Township is addressing 151 units of the projected growth share obligation with 142 units of credit and 9 rental bonuses. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Wyndhurst	1994	family, rental	126			126
Millstone Apartments	2001	family, rental	8	rental	8	16
Princeton Crossing	1994	family, sale	4			4
SERV	1997	special needs	4	rental	1	5
TOTALS			142		9	151

⁶ No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation N.J.A.C. 5:97-3.5

Proposed Affordable Housing Mechanisms

Plainsboro Township proposes to address the remaining 234-unit growth share obligation through the following mechanisms:

Extension of Expiring Controls – Princeton Crossing

Plainsboro Township will utilize the extension of expiring controls mechanism to address 14 units of its projected growth share obligation. Plainsboro plans to extend controls on 14 of the family sale units at Princeton Crossing that received credit towards its prior round obligation. The controls are set to expire between 2014 and 2015. All 14 units have executed Affordable Housing Agreements that allow for the extension of controls by municipal resolution.

Plainsboro will obtain a continuing certificate of occupancy for the 14 units. All of the units will be inspected to insure that they meet code standards. If any repairs need to be made, Plainsboro Township will complete and fund all necessary work. The Township has allocated \$400,000 of its affordable housing trust fund for this program. The controls will be extended for 30 years. **[14 family, sale units]**

Market to Affordable Program

Plainsboro will rely on a market to affordable program to address 64 units of its projected growth share obligation. The Township is requesting 64 rental bonuses for this program. The Township will be using Millstone Apartments to address 60 units of the program. The Township is in negotiations with Princeton University to purchase and deed restrict the 60 units in Millstone Apartments that are not currently deed restricted. The Township anticipates a turnover of 8-10 units per year. In addition, the Township will complete at least four additional market to affordable rental units in the Township-wide program. The Township submitted a listing of apartments available. The units will be family, rental units and will be available to any income qualified household. The Township will also address a portion of the very-low income requirement with the market to affordable program. Plainsboro has a contract with Piazza & Associates, an experienced administrative agent, which will complete the work needed to place the

appropriate deed restrictions on the units upon turnover and to select qualified households. The units will be controlled for a minimum of 30 years and the controls will be placed on the units upon turnover. Township has allocated \$3,000,000 from its trust fund for this program.

Plainsboro Township seeks a waiver for its Housing Element and Fair Share Plan, specifically to N.J.A.C. 5:97- 6.9(b)4, which specifies the number of Market to Affordable units a municipality may include in its Fair Share Plan. That subsection provides that the maximum number of market to affordable units which a municipality may include in its plan is ten sale and ten rental units or ten percent of the fair share obligation, whichever is greater. An exception to this maximum number may be granted when the municipality has demonstrated a successful history of a market to affordable program. Plainsboro therefore requests a waiver, pursuant to N.J.A.C. 5:96-15, to implement a 64-unit rental Market to Affordable program to address a portion of its growth share obligation.

Plainsboro asserts that the waiver fosters the production of affordable housing as much needed family rental units will be made available to income eligible households in a timely manner.

The Township stated that granting the waiver fosters the intent of, if not the letter of, the Council's rules because all the units will have 30 year deed restrictions, be affirmatively marketed and will be occupied by income eligible households.

Finally, Plainsboro has a mix of housing types in its plan. Plainsboro has in place, occupied for sale family units, family rental units and a group home. Plainsboro is proposing new age-restricted rentals, Medicaid bedrooms in an Assisted Living facility, new group homes and extending controls on family for-sale units.

Plainsboro's adopted Fair Share Plan included a Market to Affordable Program utilizing existing market rate apartments in Plainsboro of which there are over 5,000. Therefore, between the 60 unrestricted units at Millstone Apartments and at least four from other market rate apartments, there is sufficient housing stock for the program.

A COAH Task Force meeting was held on June 2, 2009. The task force recommends granting Plainsboro a waiver from N.J.A.C. 5:97- 6.9(b)4, which specifies

the number of Market to Affordable units a municipality may include in its Fair Share Plan (attached as Attachment B). **[64 family, rental units and 64 rental bonuses]**

Assisted Living Facility

Plainsboro will rely on a nine-unit assisted living facility to address nine units of its projected growth share obligation. The Township has a designated redevelopment area that is bound by Route 1, the Township border with West Windsor, Scudders Mill Road, and the Forrestal Center. The Redevelopment Plan was adopted on June 11, 2008. This redevelopment area will be the future site of the University Medical Center at Princeton. The 160-acre area will also include a hospital-medical office complex, senior independent living apartments, assisted living units and general offices as adjunct complementary facilities. The nine bedrooms will have Medicaid Waivers. Construction has begun on the site. **[9 rental units]**

Group Home 1

Plainsboro will rely on special needs housing to address four units of its projected growth share obligation. The Township has opted to phase this project in its Fair Share Plan; it will be operational by 2014. The Township will contract with an experienced group home provider to administer the units. The Township is seeking one rental bonus for this group home. The Township has dedicated \$200,000 of its affordable housing trust to construct the group home. **[four rental units and one rental bonus]**

Group Home 2

Plainsboro will rely on special needs housing to address four units of its projected growth share obligation. The Township states in its plan that it will contract with an experienced group home provider to manage the units. The Township is seeking one rental bonus for this group home. The Township has allocated \$200,000 of its affordable housing trust to construct the group home. Plainsboro has indicated in its Spending Plan that the project will be occupied in 2016. **[four rental units and one rental bonus]**

Independent Living

Plainsboro will rely on an 82-unit independent living facility to address the remaining 82 units of its projected growth share obligation. The Township has a designated redevelopment area that is bound by Route 1, the Township border with West Windsor, Scudders Mill Road, and the Forrestal Center. The Redevelopment Plan was adopted on June 11, 2008. This redevelopment area will be the future site of the University Medical Center at Princeton. The 160 acre area will also include a hospital-medical office complex, senior independent living apartments, assisted living units and general offices as adjunct complementary facilities. Construction has begun on the site.

[82 age-restricted, rental units]

Proposed Growth Share Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Extension of Expiring Controls	family, for-sale	14		0	14
Market to Affordable	family, rental	64	rental	64	128
Assisted Living	age-restricted, rental	9		0	9
Group Home	special needs	8	rental	2	10
Independent Living	age-restricted, rental	82		0	82
TOTALS		177		66	243

Growth Share Parameters

Plainsboro Township has satisfied the applicable Growth Share parameters as follows:

Growth Share Rental Obligation:⁷ 99 Units

Development/Project Name	Type of Affordable Unit	# Units
Wyndhurst	family, rental	126
SERV	special needs	4
Millstone Apartments	family, rental	8
Market to Affordable	family, rental	64
Group Home 1	rental	4
Group Home 2	rental	4
TOTAL		210

Growth Share Family Rental Requirement⁸ : 50 Units

Development/Project Name	Type of Affordable Unit	# Units
Wyndhurst	family, rental	126
Millstone Apartments	family, rental	8
Market to Affordable	family, rental	64
TOTAL		198

⁷ Projected Growth Share Rental Obligation: $.25(\text{Projected Growth Share})$ or $.25(393)=99$ units N.J.A.C. 5:97-3.10(b)3

⁸ Projected Growth Share Family Rental Requirement: $.5(\text{Projected Growth Share Rental Requirement})$ or $.5(99)=50$ units N.J.A.C. 5:97-3.4(b)

Growth Share Minimum Family Requirement⁹ : 162 Units

Development/Project Name	Type of Affordable Unit	# Units
Princeton Crossing	family, for-sale	4
Wyndhurst	family, rental	126
Millstone Apartments	family, rental	8
Extension of Expiring Controls	family, for-sale	14
Market to Affordable	family, rental	64
TOTAL		216

Very Low Income Minimum Requirement¹⁰ : 31 Units

Development/Project Name	Type of Affordable Unit	# Units
Millstone Apartments	family, rental	15
SERV	special needs	4
Assisted Living	age-restricted	9
Group Home 1	special needs	4
Group Home 2	special needs	4
TOTAL		31

⁹ Projected Growth Share Family Requirement: .5(Units Addressing the Growth Share Obligation) or .5(324)= 158 units N.J.A.C. 5:97-3.9

¹⁰ Growth Share Very Low Income Requirement: .13(Units Addressing the Growth Share Obligation – Built Units) or .13(243)= 31 units pursuant to P.L.2008, c.46

Age-Restricted Maximum¹¹ : 98 Units

Development/Project Name	Type of Affordable Unit	# Units
Assisted Living	assisted living	9
Independent Living	age-restricted, rental	82
TOTAL		91

Bonus Maximum¹²: 98 Bonuses

Development/Project Name	Type of Bonus	# Bonuses
SERV	special needs	1
Millstone Apartments	family, rental	8
Market to Affordable	family, rental	64
Group Home 1	special needs	1
Group Home 2	special needs	1
TOTAL		75

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction*

¹¹ Projected Growth Share Age Restricted Maximum: $.25(\text{Projected Growth Share})$ or $.25(393) = 98$ units
N.J.A.C. 5:97-3.10(c)

¹² Projected Bonus Maximum: $.25(\text{Projected Growth Share})$ or $.25(393) = 98$ units N.J.A.C. 5:97-3.20

Reporter indicates that between January 1, 2004 and September 2008, Plainsboro has issued certificates of occupancy for 258 housing units and also for the non-residential square footage equivalent of 548 jobs, yielding an actual growth share obligation through September 30, 2008, of 86 affordable units.¹³

D. Summary of Plan to Address Fair Share Obligation

REHABILITATION SHARE SUMMARY

Rehabilitation Share: 44 Units

Program Name	# Units
Middlesex County Rehabilitation Program	44
TOTAL	44

PRIOR ROUND SUMMARY

Prior Round Obligation: 205 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	Princeton Meadows	40			40
	Princeton Crossing	36			36
	RCA with New Brunswick	25			25
	Millstone Apartments	52	rental	52	104

¹³ The number of residential COs (258) is initially divided by 5 to yield 52 units and the number of jobs (548) is initially divided by 16 to yield 34 units. Plainsboro's total actual growth share is therefore 86 units (52 + 34). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

Subtotal	153		52	205
TOTAL				205
Surplus/Shortfall				0

GROWTH SHARE SUMMARY
Projected Growth Share Obligation: 393 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	Wyndhurst	126		0	126
	Millstone Apartments	8	rental	8	16
	Princeton Crossing	4		0	4
	SERV	4	rental	1	5
Subtotal		142		9	151
Proposed Mechanisms	Extension of Expiring Controls	14		0	14
	Market to Affordable	64	rental	64	128
	Assisted Living	9		0	9
	Group Home 1	4	rental	1	5
	Group Home 2	4	rental	1	5
	Independent Living	82		0	82
Subtotal		177		66	243
TOTAL					394
Surplus					1

II. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

Plainsboro Township's certified plan included a development fee ordinance that was approved by COAH on September 8, 1994. On November 14, 1994, COAH received a request from Plainsboro to amend its mandatory development fee ordinance. On December 7, 1994, COAH approved the amendment request, which Plainsboro adopted on December 14, 1994. COAH granted Plainsboro approval of an amendment to its development fee ordinance, which was adopted by the Township on February 9, 2005. Plainsboro submitted a draft amended development fee ordinance for COAH's review and approval with its third round petition. The amended development fee ordinance was approved on March 19, 2009.

B. Third Round Spending Plan

Plainsboro Township's prior round spending plan was approved by COAH on May 3, 1995. A revised third round spending plan was submitted by Plainsboro with the Township's third round petition for COAH's review and approval. The spending plan will be reviewed by COAH in a separate report.

C. Affordable Housing Ordinance/Affordable Housing Administration

Plainsboro Township has an adopted affordable housing ordinance for its prior round obligation. Plainsboro has submitted a revised draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance has also been amended to include the compliance with barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

An ordinance establishing the position of a municipal housing liaison was adopted on September 21, 2006 and a resolution appointing Lester Varga as municipal housing liaison was adopted by the Township on November 28, 2007.

Plainsboro Township is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within the Township and must identify an experienced administrative entity for that purpose by the contract, agreement or letter. Plainsboro has submitted a contract with Piazza & Associates as its administrative entity for all affordable units. Pursuant to N.J.A.C. 5:80-26.14(b), Plainsboro has submitted a written operating manual for administering affordable units within the Township.

D. Affirmative Marketing Plan

Plainsboro Township has submitted an affirmative marketing plan that comports with the requirements of the UHAC and ensures the units in the Township's 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the Township within 45 days of COAH's grant of substantive certification and submitted to COAH.

III. MONITORING

Plainsboro Township must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the Township's actual growth pursuant to N.J.A.C. 5:97-2.5. Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Plainsboro's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Plainsboro

and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

IV. SUMMARY OF COMMENTS

Adam M. Gordon, on behalf of Fair Share Housing Center (FSHC), submitted a letter dated April 7, 2009, commenting on Plainsboro's Fair Share Plan during the 45-day objection period. In addition, at the conclusion of the 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b). COAH received comments from Fair Share Housing Center on June 4, 2009.

Fair Share Housing Center's Comments

FSHC states that the letter is not intended as an objection to the Township's plan pursuant to N.J.A.C. 5:96-4.1; however FSHC has three concerns that they would like addressed. The first concern is regarding the number of very-low income units included in the Township's plan. Plainsboro calculated its very-low income obligation to be 31 units, and the Township is proposing to address this obligation with 21 special needs units and 10 family rental units. FSHC states that the Township must address half of its very-low income obligation with family housing, pursuant to a letter that COAH issued to municipalities on October 30, 2008.

The second concern is regarding the Township exceeding the 10 percent cap for the market-to-affordable program as stated in N.J.A.C. 5:97-6.9(b)4. FSHC asserts that Plainsboro has not demonstrated a history of administering a market-to-affordable program, and the vague description makes it difficult to justify a waiver to COAH's rules.

The third concern is regarding the Township's municipal resolution to extend controls on affordability. FSHC asks COAH to "scrutinize" to ensure that it conforms to all regulations pursuant to N.J.A.C. 5:93-9.4.

In the letter dated June 4, FSHC expresses concern that the available units in Millstone consist of studio and one-bedroom units. FSHC continues by stating that the units are not conducive to housing very-low income families.

COAH's Response to FSHC Comments

The COAH letter that was issued to municipalities on October 30, 2008, was a guidance letter on the implementation on P.L.2008, c.46, and not an adopted regulation. Therefore, Plainsboro is not required by statute or regulation to conform to the letter. However, Plainsboro has demonstrated that the plan contains enough very-low income units to satisfy the very-low income new requirement. Further, Plainsboro has agreed to include 15 very low income family rental units in its Market-to-Affordable program, thereby ensuring that 50% of the very-low income units are available to families. Pursuant to N.J.S.A. 52:27D-329.1, COAH will review municipal housing activities, at least once every three years, to ensure that at least 13 percent of the housing units made available for occupancy by low-income and moderate income households will be reserved for occupancy by very-low income households.

Regarding FSHC's second concern, although Plainsboro has not demonstrated a history of administering a market-to-affordable program, the Township has identified an apartment complex, Millstone Apartments, which currently has deed restricted affordable units. The Township plans to deed restrict 60 additional market rate units in the Millstone Apartment Complex. The Township has entered into negotiations to deed restrict 60 additional units in this apartment complex. In addition, the Township has committed \$3,000,000 to complete this program. Further, 15 of the units will now be provided for very low-income families. The Township has entered into a contract with an experienced administrative agent, Piazza & Associates, to administer the program. The Township has submitted additional information for the Council to consider with its waiver request and a COAH task force recommended approval of the waiver on June 2, 2009. (attached as Attachment B)

Regarding the concern that the units in the Millstone Apartment development solely consist of studio and one-bedroom units, this is not accurate. There complex

consists of studio, one-bedroom and two-bedroom units. Pursuant to N.J.A.C. 5:97, a family unit is defined as a “self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is available to the general public and not restricted to any specific segment of the population.” The number of bedrooms is not included in the definition of a family unit.

The studio, one-bedroom and two-bedroom deed restricted units will be available to the general population. In addition, the Market to Affordable program is not subject to the bedroom distribution required in N.J.A.C. 5:80-26.3(b) and (c), pursuant to N.J.A.C. 5:97-6.9 (c) 2. However, the Township has agreed to make certain that two-bedroom units are included in the 60 deed restricted units in Millstone Apartments and will investigate adding three-bedroom units to the municipal program. These units are entitled to receive and have been granted rental bonuses. Pursuant to N.J.A.C. 5:97-3.6, rental units that are available to the general public, in excess of the municipality’s growth share rental obligation, may receive two units of credit for each housing unit.

Regarding FSHC’s third concern, the Township’s proposal to extend expiring controls has been reviewed. COAH staff has determined that the Township is following COAH’s regulations at N.J.A.C. 5:93-9.4. COAH staff notes that affordable housing agreements are in place for all units for which controls are proposed to be extended.

V. RECOMMENDATION

COAH staff recommends that Plainsboro Township be granted third round substantive certification. Plainsboro must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption. Further, the Township must provide COAH a signed agreement with Princeton University to deed restrict the Millstone Apartments within six months from the date of substantive certification. Plainsboro must also submit an update on the progress of its Market to Affordable Program.

**COAH REPORT IN RESPONSE TO COMMENTS
RECEIVED REGARDING COMPLIANCE REPORT
PLAINSBORO TOWNSHIP / MIDDLESEX COUNTY
REGION #3
June 9, 2009**

During the 14-day comment period following the receipt of Plainsboro Township's Compliance Report, one comment was received: Adam M. Gordon, Fair Share Housing Center (FSHC). The comments do not alter the Compliance Report.

Fair Share Housing Center's Comments

On April 7, 2009, FSHC submitted comments to COAH on Plainsboro's Housing Element and Fair Share Plan. The comments focused on three issues: that the Township failed to meet the very-low income family requirement, Plainsboro's request for a waiver from the ten percent cap for the Market to Affordable program should not be granted, and that the Extension of Expiring Controls program should be "scrutinized." COAH responded to these comments in the Township's Compliance Report, which was dated May 20, 2009. In FSHC's comments received by COAH on June 4, 2009 to the Compliance Report, FSHC maintains those comments and addresses additional comments to COAH's Compliance Report.

First, FSHC states that the very-low income family requirement originates from the application of COAH's existing regulations on the family requirement for the overall obligation (N.J.A.C. 5:97-3.9) to a new statute. N.J.A.C. 5:97-3.9 requires that 50 percent of the units within the municipality addressing the growth share be family housing units. FSHC maintains that the October 30, 2008 letter provided that municipalities would be required to submit a Fair Share Plan that provides at least 50 percent of the very-low income requirement through family housing, in keeping with COAH's current rule on the family requirement. FSHC notes that West Amwell failed to comply with this requirement in its Fair Share Plan, even though the October 30, 2008, letter made it clear that it was intended for "Fair Share Plans being submitted to meet COAH's December 31, 2008 deadline." West Amwell's very-low income obligation is six units, and the Township is proposing to address this obligation with 14 proposed group home bedrooms. FSHC states that the Township could meet its very-low income family requirement by

making some of the proposed accessory apartments available to very-low income people (although FSHC has concerns on the bedroom mix of accessory apartments).

FSHC states that COAH's addendum ignores the text of its October 30, 2008 letter, in that the letter did not state that COAH would be proposing a new rule to require the 50 percent, but that COAH was applying its current rule to the new statute. As such, COAH does not need to adopt a new rule. FSHC maintains that West Amwell modify its plan to include four very-low income family units before substantive certification can be granted. If substantive certification is granted without the four very-low income family units, the decision would be subject to legal challenge.

Second, FSHC continues to oppose West Amwell's request for the rental bonus waiver, given that the municipality does not provide a mix of housing types, including housing available to very-low income households.

COAH's Response

FSHC misinterprets COAH's October 30, 2008 letter. The letter was not intended to advise municipalities that N.J.A.C. 5:97-3.9 applies to the new statutory requirement that municipalities provide 13% of the fair share obligation to very low income households. N.J.A.C. 5:97-3.9 provides that at least 50 percent of the units within the municipality addressing the growth share obligation shall be family units. This regulation applies to the growth share obligation as a whole and was adopted before A500 was enacted. Thus, COAH did not contemplate its application to the recently adopted very low income housing requirement. Likewise, COAH did not intend the letter to act as an interpretation of N.J.A.C. 5:97-3.9. This regulation applies to the entire growth share obligation, not just the very low income units. It was not intended to require that 50 percent of the very low income units be provided through family housing in all cases, although COAH encourages municipalities to do so.

COAH did not intend the October 30, 2008 letter as an interpretation of its regulations so as to require municipalities to provide 50 percent of the very low income units as family units. Therefore, as discussed in the COAH Compliance Report, West Amwell's plan does comport with COAH regulations in this regard.

To address FSHC's second concern, as indicated in COAH's Compliance Report, West Amwell's waiver request meets the criteria in N.J.A.C. 5:96-15.2. The accessory apartments

have 30-year affordability controls and were created the units under the direction of N.J.A.C.
5:93-5.9(e), with the intention of receiving rental bonuses for the units.